

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EDWARD E. WALKER,
Petitioner
v.

JERRY HOWELL, et. al,
Respondents.

Case No. 2:18-cv-02428-RFB-CWH

ORDER

On January 24, 2019, the Court entered an order and final judgment dismissing this habeas corpus action because petitioner filed a motion for leave to proceed *in forma pauperis* without the required attachments, namely, an inmate account statement for the past six months and a properly executed financial certificate. ECF Nos. 3/4; see 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2. On February 28, 2019, the Court received from petitioner a motion for leave to proceed *in forma pauperis* that includes the required attachments, as well as another petition for writ of habeas corpus. ECF No. 5. Although the order dismissing this action instructed petitioner to file a *new* habeas action, the Court shall, in the interest of judicial efficiency, set aside its dismissal and judgment.

Based on the information provided with the perfected motion, the Court finds that petitioner can pay the full filing fee of \$5.00. Thus, the motion will be denied. Petitioner will be required to pay the fee before proceeding herein.

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1 In addition, the Court notes that the petitions included with each of petitioner's
2 motions to proceed *in forma pauperis* are incomplete and lack much of the information
3 the Court requires to determine the procedural posture of his case. ECF Nos. 1-1, 5-1;
4 see Rule 2, Rules Governing Habeas Corpus Cases Under Section 2254 (Habeas Rules)
5 (describing the requirements of the petition, including its form, contents, scope, and
6 sufficiency). Both petitions contain a single ground for relief, but the petitions lack
7 sufficient factual allegations to state a comprehensible ground allowing for relief. *Id.*
8 While it appears that petitioner challenges his underlying conviction based on a defective
9 complaint, thus challenging the state court's jurisdiction, he fails to provide the factual
10 basis that rendered the complaint defective. *Id.* Thus, Petitioner is advised that, even
11 with payment of the filing fee, his case is subject to dismissal for failure to state a claim
12 upon which habeas relief may be granted. See Rule 4, Habeas Rules (requiring district
13 court to summarily dismiss petition if it plainly appears petitioner is not entitled to relief).

14 **IT IS THEREFORE ORDERED** that the order and judgment entered on January
15 24, 2019, (ECF Nos. 3 and 4) are VACATED.

16 **IT IS FURTHER ORDERED** that petitioner's application to proceed *in forma*
17 *pauperis* (ECF No. 5) is denied. Petitioner shall have 30 days from the date that this
18 order is entered to have the filing fee of \$5.00 sent to the Clerk of the Court. Failure to
19 comply will result in the dismissal of this action.

20 **IT IS FURTHER ORDERED** that petitioner shall have until May 6, 2019 to file an
21 amended petition that contains factual allegations to support petitioner's claim for relief.

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IT IS FURTHER ORDERED that the Clerk shall send petitioner two copies of this order. Petitioner is ordered to make the necessary arrangements to have one copy of this order attached to the check paying the filing fee.

DATED this 15th day of April, 2019.


RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE